ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment to the Commission's	)	
Regulatory Policies Governing	)	IB Docket No. 95-41
Domestic Fixed Satellites and	)	
Separate International Satellite	)	
Systems	)	

COMMENTS OF
AMSC SUBSIDIARY CORPORATION

AMSC Subsidiary Corporation ("AMSC") hereby comments on the Notice of Proposed Rulemaking ("NPRM") in the above-referenced docket.[1] The NPRM largely addresses issues involving Fixed Satellite Service ("FSS") satellites. AMSC's comments are limited to the few questions raised in the NPRM dealing with Mobile Satellite Service ("MSS") satellites. With respect to MSS satellites in the bands 1525-1559/1626.5-1660.5 MHz, AMSC urges the Commission to maintain the current policy of restricting access to the U.S. market in order to preserve access to sufficient spectrum by the domestic MSS system. There is a severe shortage of spectrum for MSS systems in these bands, which makes the international frequency coordination process for such systems far more difficult than the same process for FSS satellites which operate in other bands and can more easily share spectrum. As a result, the maintenance of current U.S. policy is necessary so that the U.S. will be able to coordinate internationally for access by the domestic MSS system to the minimal spectrum that is the basis for the system's license.

[1] FCC 95-146 (April 25, 1995).

Background

AMSC is currently authorized to provide terrestrial, aeronautical, and maritime MSS to all fifty states, Puerto Rico and the U.S. Virgin Islands, and coastal areas up to 200 miles offshore.[2/] AMSC is the only entity licensed to provide MSS in the United States in the bands 1544-1559/1645.5-1660.5 MHz. The Commission found it necessary to limit its licensing to a single entity due largely to the shortage of available spectrum. The Commission decided that the U.S. system would need a minimum of twenty megahertz of mobile-link spectrum (ten megahertz in each of the uplink and downlink directions) in order to justify the financial risk, provide a variety of services to an adequate customer base, and provide both safety and non-safety services.[3/] The Commission also found that an arrangement for sharing facilities with Canada would be easier if there were only one U.S. licensee. 2 FCC Rcd 485 at n. 17; 4 FCC Rcd 6029 at 6033.

The MSS L-band spectrum shortage that caused the licensing of only one U.S. MSS system is made worse by the need for the U.S. system to share spectrum with many foreign systems. The U.S. is engaged in international frequency coordination on behalf of AMSC's system with over twenty different satellites that are operated or proposed for operation by four different foreign administrations whose satellites have footprints that cover substantial amounts

---

2/ Memorandum Opinion, Order and Authorization, Gen. Docket No. 84-1234, 4 FCC Rcd 6041 (1989), Final Decision on Remand, 7 FCC Rcd 266 (1992); aff'd sub nom. Aeronautical Radio, Inc. v. FCC, 983 F.2d 75 (1993).

3/ Second Report and Order, 2 FCC Rcd 485 (1987), clarified, 2 FCC Rcd 2417 (1987), recon denied, 4 FCC Rcd 6029 (1989), rev'd and remanded on other grounds sub nom., Aeronautical Radio, Inc., v. FCC, 928 F.2d 428 (D.C. Cir. 1991), Tentative Decision on Remand, 6 FCC Rcd 4900 (1991), Final Decision on Remand, 7 FCC Rcd 266 (1992), aff'd sub nom., Aeronautical Radio, Inc., v. FCC, 983 F.2d 275 (D.C. Cir. 1993).

of the United States. These are Inmarsat, Canada, Mexico and the Russian Federation. In addition, other satellites being coordinated by other administrations also have an impact on the U.S. system's access to spectrum. All told, there is far less spectrum available than there is stated demand for the spectrum.

In order to preserve access to twenty megahertz for the U.S. system, the Commission limited access to the U.S. by foreign systems. Absent such a limitation, the systems that are technically capable of providing service to the U.S. could claim access to the additional spectrum needed to meet the demand that they estimate would be generated by such domestic U.S. service. Those with spectrum inefficient operations are particularly problematic. Nonetheless, if all parties negotiate in good faith based on reasonable projections, if the Commission maintains its policy limiting access to the U.S., and if Inmarsat improves the efficiency of its operations, it is reasonable to expect that the U.S. system will gain access to the full twenty megahertz.

The NPRM in this proceeding focuses on FSS satellites that are licensed by the United States, proposing broad reform of current restrictions on domestic satellites providing international service and separate international systems providing domestic service.[4/] In the concluding paragraphs of the NPRM, the Commission also solicits comments on "whether and to what extent, all U.S.-licensed geostationary satellite systems should be permitted to provide both domestic and international services." NPRM, para. 38. The Commission explicitly makes no proposal as to the extent to which Inmarsat should be permitted to serve the U.S. market, "recognizing that we have not yet reached a coordination agreement ensuring sufficient spectrum for geostationary U.S. MSS licensee, American Mobile Satellite Corporation." NPRM, para. 39.

4/ Separate systems are FSS systems other than Intelsat, authorized by the Commission to provide service between the United States and international points.

The Commission goes on to invite comment on whether non-U.S. satellites should be permitted to serve the U.S. domestic market.

Discussion

Any review of the Commission's policy limiting access to the U.S. market by foreign MSS systems in the bands 1525-1559/1626.5-1660.5 MHz would have to conclude that the policy remains valid and necessary. The key element of the Commission's current policy is its decision that the U.S. MSS system should have access to approximately twenty megahertz of mobile-link spectrum. The reasons for that decision still hold true. AMSC continues to need this minimum amount of spectrum to serve U.S. customers, to justify the risk involved in its investment, to provide the variety of services contemplated and to provide both safety and non-safety services.

There is no more reason to reverse the decision that AMSC should have access to twenty megahertz than there would be for the Commission to reverse its decision that any other licensee should have access to the amount of spectrum that is contemplated by their authorization. In all such cases, the Commission made a rational decision that should not be changed without compelling evidence that the initial decision was not justified or that circumstances have changed substantially -- neither of which is evident here.

The principle of having access to a minimum amount of spectrum is even more valid today than it was when first proposed, since it has been a fundamental premise for the development of the U.S. system. AMSC has financed and designed its system based on there being a reasonable opportunity for the U.S. to succeed in coordinating the system's access to twenty megahertz of mobile link spectrum. AMSC's willingness to undertake the obligation of

providing priority and preemptive access to AMS(R)S is similarly based on the likelihood of its gaining access to a reasonable amount of spectrum so that AMSC can provide both safety and non-safety services. AMSC's joint procurement with the Canadian MSS entity also is based on the understanding that the two systems would be able to provide back-up to each other without concern that the Canadian system would use its technical capacity to claim spectrum that AMSC requires in order to gain access to its twenty megahertz of spectrum. In recent months, as the international frequency process has remained largely deadlocked, AMSC has been willing to take the risk of agreeing to a proposal for temporary arrangements with periodic reviews only because of its confidence that U.S. policy will hold firm at least until long-term access to twenty megahertz for the U.S. system is secure.

The spectrum inefficiency of certain foreign systems adds to the need for continuation of U.S. policy with respect to MSS systems. Comsat has claimed that Inmarsat is gradually beginning to introduce more spectrum-efficient equipment, but the speed of that introduction has been extremely slow and Comsat has made no commitment to accelerate the transition from its imbedded base of inefficient equipment.[5/] Comsat concedes that it will take until the end of this decade before more than half of its operations will use digital terminals. Id. at p. 17.

The dynamics of the spectrum coordination process have not changed since the Commission established its policy of limiting access by foreign systems, nor is the process any closer to a long-term solution. Until the domestic system is established and has reasonable certainty of access to twenty megahertz of spectrum for the U.S. system, any reversal of the

---

5/ Comments of Comsat Corporation on Application of AMSC Subsidiary Corporation for Authority to Provide Incidental Transborder and International Maritime Communications, File No. ITC-95-280 (May 11, 1995).

Commission's policy will only provoke Inmarsat and other foreign systems to make the frequency coordination process even more difficult than it has already been.

The only exceptions that appear to be appropriate at this time are ones that are relatively *de minimis* and are driven by concerns of customer convenience. For instance, these principles apply to AMSC's pending application to provide extended maritime service.[6/] The focus of AMSC's pending maritime application is on providing convenience to customers who subscribe to AMSC's service for use within the 200-mile limit, but also occasionally have a need for communications beyond the current 200-mile limit. Such an exception for small amounts of traffic is consistent with the flexibility that was found in the Commission's Transborder Policy and is particularly appropriate for mobile service customers. Due to the small amount of traffic involved, these exceptions will have no impact on the international frequency coordination process.

6/ Application of AMSC Subsidiary Corporation for Authority to Provide Incidental Transborder and International Maritime Communications, File No. ITC-95-280 (April 4, 1995).

Conclusion

Therefore, for the reasons set forth herein, to the extent the Commission in this proceeding decides to address issues other than those regarding FSS systems, AMSC urges that it should maintain its current policy regarding MSS systems operating in the 1525-1559/1626.5-1660.5 MHz bands.

Respectfully submitted,

AMSC SUBSIDIARY CORPORATION

Bruce D. Jacobs
Glenn S. Richards
Robert L. Galbreath
Fisher Wayland Cooper
Leader & Zaragoza L.L.P.
2001 Pennsylvania Ave., N.W.
Suite 400
Washington, D.C. 20006
(202) 659-3494

Lon C. Levin
Vice President and
Regulatory Counsel
AMSC Subsidiary Corporation
10802 Parkridge Boulevard
Reston, Virginia 22091
(703) 758-6000

Dated: June 8, 1995